IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 15915 of 1995

Dated -----August, 2006

Between

V.Sunil Reddy ….Petitioner

And

The Collector, Hyderabad District, Nampally Road, Hyderabad And anr.

…Respondets

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO :15915 of 1995

ORDER:

This Writ Petition has been filed seeking Writ of Mandamus, to declare the action of the respondents in demolishing the structures in plot No. 52 of Sy No. 102/3, situated in Hakimpet village of Hyderabad District, by employing bulldozers as illegal and arbitrary and for a consequential direction to the respondents to pay an amount of Rs.1,00,000/- on account of said illegal removal of the structures.

In the affidavit filed in support of the Writ Petition, it is stated as follows:

The petitioner is the owner of plot No. 52 in Sy. No. 102/3,

situated in Hakimpet Village of Hyderabad District and the same was purchased from its earlier owner and possessor, one Sri Syed Ahmed Nooruddin vide registered sale deed No. 3000 of 1979. The petitioner had constructed servant quarter and compound wall in the above said plot in the year 1982 and after assessment, the Municipal Corporation of Hyderabd, had given House No. 8-2-686/2/52. The petitioner had constructed the said servant quarter and compound wall by spending Rs.50,000/-, but however, the respondents along with other twenty persons including police personnel had come to the site on 1-7-1995 and demolished the servant quarter and compound wall.

It is the case of the petitioner that the said site in question is his private property, having purchased through valid registered sale deed. It is further stated that, earlier, when the assignment in favour of the vendor of the petitioner was cancelled, the same was questioned in Writ Petition No. 120 of 1982 and the order canceling the assignment issued by the Joint Collector in file No.F-1/21064/79, dated 2-11-1982 was quashed by judgment dated 21-1-1988. It is further stated, in any event, the respondents have no authority to demolish the structures without conducting any prior enquiry and issuing notice to the petitioner. As such, it is the case of the petitioner that as the said servant quarter and compound wall were demolished by the respondents illegally, depriving him of his property other wise than by due process of law, he is entitle for compensation.

In the counter affidavit filed on behalf of the respondents, it is stated, that the subject land of the writ petition was originally under the jurisdiction of the Mandal Revenue Officer, Golconda Mandal, but however, due to bifurcation and formation of new mandals, the said site had fallen to the jurisdiction of the Mandal Revenue Officer, Shaikpet Mandal. As such, the Mandal Revenue Officer, Shaikpet has

filed counter affidavit. While admitting assignment made in favour of the vendor of the petitioner, it is also stated in the counter affidavit that the order cancelling the said assignment was set aside by this Court. But, however, it is stated that the assignee was not in physical possession of the said site at any time and the said land is recorded in the Government records as government land. It is further stated that the State of Andhra Pradesh, represented by the Revenue Divisional Officer, has filed land grabbing case in LGC No. 187 of 1997 and the petitioner is also made as a party respondent in the said case. With regard to alleged demolition of structures on 1-7-1995, it is categorically stated that the said allegation is incorrect and no such steps were taken for demolition of the compound wall and servant quarter as alleged. It is further pleaded that in view of the same, petition under Article 226 of the Constitution of India is not maintainable and sought for dismissal of the Writ Petition.

In this Writ Petition, it is submitted by Sri E. Ayyapu Reddy, learned Counsel appearing for the petitioner that though the petitioner is the owner of the plot in question by virtue of registered sale deed from the original assignee, but the respondents have without any authority of law and jurisdiction have illegally demolished the compound wall and servant quarter constructed in the said plot. It is submitted by the learned Counsel that though the respondents have denied such demolition on 1-7-1995, but however various photographs taken on the said date indicate that structures were demolished. It is further submitted that even assuming that the Government is claiming title to the land in question, the petitioner has to be evicted through due process of law by initiating appropriate proceedings under the A.P. Land Encroachment Act, 1905. But, however, the respondents have taken law into their hands and demolished the structures without

issuing any prior notice and without conducting enquiry; as such, the petitioner is entitle to award of compensation equivalent to cost of the structures, which he was deprived of otherwise than by due process of law.

On the other hand, it is submitted by the learned Government Pleader appearing for the respondents that no steps were taken for demolishing the structures and in that view of the matter, the petitioner cannot seek any relief from this Court in this petition filed under Article 226 of the Constitution of India.

In this case, it is to be seen, though it is the case of the petitioner that he has purchased the plot in question, which admeasures 1000 square yards, by registered sale deed No. 3000 of 1979 and that he has raised compound wall and servant quarter in the plot in question and the same were demolished illegally by the respondents, but however, in the counter affidavit filed on behalf of the respondents there is a categorical denial of the allegation of demolishing the structures. In view of the averments in the counter affidavit, denying the allegation of the petitioner of demolishing such structures, as alleged by the petitioner, what remains is allegation of factual fact whether the structures raised by the petitioner in the plot in question were demolished on 1-7-1995 as alleged by the petitioner. Though the learned Counsel for the petitioner has shown photographs, but in view of the stand of the respondents in the counter affidavit, it is not possible to record a definite finding in absence of recording any evidence that the respondents have demolished the structures , that too, in the plot of the petitioner bearing No. 52 covered by Survey No. 102/3 of Hakimpet village in Hyderabad District on 1-7-1995. Further, in this writ petition filed under Article 226 of the Constitution of India, it

is not possible either to conduct full-fledged trial or to record a finding in respect of demolition, merely on the plea of the petitioner, more particularly when the same is categorically denied in the counter affidavit filed by the respondents, which is not controverted. In that view of the matter, I do not find any valid ground to grant relief as prayed for.

The Writ Petition is devoid of merits and the same is accordingly dismissed. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE:----August, 2006.
Msnr.